

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 6, 2007

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 6, 2007, at 1:30 P.M., in the Planning Department Conference Room, City Hall – 10th Floor, 455 N. Main St., Wichita, Kansas. The following members were present: M.S. Mitchell, Chair; David Dennis; Darrell Downing; Bud Hentzen; Hoyt Hillman; Ronald Marnell; G. Nelson Van Fleet; Don Sherman; Debra Miller Stevens; Bill Johnson and John W. McKay, Jr. Michael Gisick, Don Anderson, Vice-Chair and Elizabeth Bishop were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner and Lisa Estrada, Recording Secretary.

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1. Approval of the November 15, 2007 MAPC minutes.

MOTION: Approve November 15, 2007 MAPC minutes.

MARNELL moved, **HENTZEN** seconded the motion, and it carried (9-0).

❖ **Items # 2-1 through 2-6 may be taken in one motion unless there are questions or comments.**

2. Consideration of Subdivision Committee recommendations from the meeting of November 29, 2007.

- 2-1** **SUB 2007-98: One-Step Final Plat -- MIKE STEVEN MOTORS ADDITION,** located west of Rock Road and on the south side of Kellogg. (Deferred by MAPC on 11/15/07)

NOTE: This is a replat of the Chrysler Addition. E.M. Steven's 3rd Addition and a portion of the Keys 2nd Addition. The plat includes the vacation of Whittier. A zone change request from SF-5, Single-Family Residential to LC, Limited Commercial has been requested for the southeastern corner of the site. The Mike Stevens Motors Community Unit Plan (DP-308, CUP 2007-61) has also been proposed for this site.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change.
- B. Municipal services are available to serve the site.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- D. City Engineering requests revisions to the drainage plan. A drainage easement is needed. A temporary drainage easement is needed to cover an existing storm sewer until relocation, which will be provided at site development.
- E. Traffic Engineering has approved the right-of-way platted for adjoining streets. Traffic Engineering requests a 60-foot contingent street dedication for Orme to extend through the site. The applicant will be establishing this contingent dedication by separate instrument.
- F. Traffic Engineering has requested complete access control be dedicated along Kellogg Drive extending from Gouverneur to Whittier. Access controls shall be referenced in the plat's text.
- G. The applicant shall provide a guarantee for closure of the street return. In the alternative, any driveways shall be constructed in accordance with City's standards.
- H. Since the vacation of Whittier creates an off-site dead end, a turnaround needs to be platted.
- I. City Fire Department advises the applicant that hydrant relocation is needed. A site plan is also requested.
- J. County Surveying advises that the plat needs reference to section, township and range if vicinity map is not on final plat.
- K. County Surveying advises that contingent building setbacks need to be dimensioned.
- L. The wall easement shall be referenced in the plat's text.
- M. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- N. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of

the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

SCHLEGEL Asked about CUP approval.

SLOCUM The CUP was approved at last MAPC meeting. Since there have not been any protests, the zone change will be forwarded to the City Council.

SCHLEGEL On the plat, will the City be getting right-of-way that is requested for the extension of Orme?

STRAHL Correct, for the contingent dedication.

SCHLEGEL For the turn-around for Whittier?

STRAHL Correct.

GREG FERRIS, representative for Steven Motors, they will dedicate for the turn-around if the City does not do Orme.

SCHLEGEL If the City does Orme, then Whittier will dead-end at Orme?

FERRIS You will not need a turn around because you will have a street.

MOTION: To approve as recommended by the Subdivision Committee.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (11-0).

2-2. SUB 2007-90: Final Plat -- CAMBRIA ADDITION, located on the east side of 143rd Street East and north of Pawnee.

NOTE: This unplatted site is located in the County within three miles of Wichita's boundary. It is located in an area designated as "2030 urban growth area" by the Wichita-Sedgwick County Comprehensive Plan. Although the property does not currently adjoin the City of Wichita, the applicant has requested annexation in order to allow for the lot sizes being platted. An island annexation will be needed or in the alternative, annexation of adjoining properties to the west is needed so that this property will be eligible for annexation.

The site is currently zoned SF-20, Single-Family Residential. The property will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. Water Utilities Department has required a petition for the 8" equivalent pipe (16" to be built) from Harry and 143rd E to south line of plat. A petition is needed for the extension of the public water distribution system to serve all lots. A petition is needed for public sewer to serve all lots and main benefit fees shall be included in that petition.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City and County Engineering have approved the drainage plan.
- E. The plat proposes complete access control along the 143rd St. East street frontage except for two street openings. Traffic Engineering has approved the access controls.
- F. The plat should meet service drive code, per Sedgwick County Fire Department.
- G. In the event the plat is in the County, arterial road paving fees will be needed.
- H. The plattors text shall include language that the owners of the reserves will bear the cost of any repair or replacement of improvements within said Reserves D and E resulting from street construction, repair, or maintenance.
- I. County Surveying advises that a site benchmark is needed.
- J. The Applicant shall guarantee the paving of the proposed streets.
- K. The paving guarantee shall include the installation of a temporary turnaround at the terminus of Welsh at the plat's north line.
- L. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE)

should be contacted (316-322-8247) to have a wetland determination completed.

- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- N. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- O. The Subdivision Committee has approved a 30-ft contingent easement along the plat's east property line effective upon connection of an adjoining bike path.
- P. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- Q. GIS has approved the plat's street names.
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for

projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Westar Energy advises that any relocation of existing utilities will be at the applicant's expense.
- AA. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve items 2-2, 2-5 and 2-6.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).

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- 2-3. SUB 2005-89: Revised One-Step Final -- MOUNT CARMEL RIVER ADDITION**, located south of 21st Street North and west of Meridian.

NOTE: This replat is a consolidation of Lot 8, Indian Hills 3rd Addition and Lot 6, Snodgrass 3rd Addition. The lots have been expanded to include the Reserve areas previously dedicated for drainage, river-bank maintenance and flood control, in addition to Reserve A proposed with this plat.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. The adjoining street right-of-way widths need to be denoted.
- E. The owner's certificate in the plat's text needs to reference "a Lot, Block and Reserve".
- F. County Surveying requests benchmark datum.
- G. County Surveying requests dimensions/bearings for Reserve A. The Subdivision Committee has requested that the limits of the plat be reduced to the high bank line prior to MAPC review.
- H. The plat's text should clarify that the dedication of Reserve A is to the City of Wichita.
- I. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.

- J. A lot number and block number should be denoted on the face of the plat.
- K. The Applicant has platted a 20-ft building setback, which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family Residential District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final

plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MITCHELL After discussion with the Chair of the Park Board and Director of Parks and Recreation, an agreement has been reached as to the location of private property with respect to the high bank of the Arkansas River. City Staff worked with the attorney and engineer for the applicant to help resolve this issue. The redrawn plat is satisfactory and accomplishes the establishment of the high bank of the Arkansas River as the line of demarcation between private property and State property that is used as a City public park.

MOTION: Approve the final plat.

MITCHELL moved, **JOHNSON** seconded the motion, and it carried (10-0).

2- 4. SUB 2007-103: One-Step Final Plat -- BRENTWOOD SOUTH 3RD ADDITION, located east of Webb Road on the north side of Pawnee.

NOTE: This is a replat of a portion of Brentwood South 2nd Addition.

STAFF COMMENTS:

- A. Water Utilities Department advises that in-lieu-of-assessment fees are needed for connection to water.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. County Engineering requests a drainage plan.
- D. County Surveying advises of the need for a benchmark datum.
- E. Traffic Engineering has approved the access controls. The plat proposes one street opening along Pawnee.
- F. Due to the proposed 58-foot street, a zone change to a residential district is needed. In the alternative, a restrictive covenant is needed limiting the site to residential development.
- G. The Applicant shall guarantee the paving of the proposed street.
- H. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- I. GIS has requested the street be labeled as "Goebel Cir".
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

STRAHL Applicant requests 2-week deferral.

MOTION: Two-week deferral, as requested by the applicant.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (11-0).

2-5. SUB 2007-106: One-Step Final Plat -- NORTHGATE COMMERCIAL ADDITION, located on the north side of 53rd Street North and west of Meridian Avenue.

NOTE: The site has been approved for a zone change (ZON 2006-25) from SF-5, Single-Family Residential to LC, Limited Commercial. The Northgate Commercial Park Community Unit Plan (CUP 2006-24, DP-299) was also approved for this site (Parcels 4-12)

STAFF COMMENTS:

- A. Water Utilities Department has required a petition for extension of water and sewer to serve all lots. The applicant must fulfill stipulations of the Raw Water Line Vacation Agreement. If there are any questions regarding this agreement, the applicant should contact Jerry Blain 316-269-4764.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. An additional drainage easement will be included.
- D. County Engineering recommends annexation of 53rd Street from Meridian to Sheridan.
- E. In accordance with the CUP, the following transportation improvements are required:
 - 1. Guarantee signalization at the 54th Street and Meridian intersection.
 - 2. Guarantee a southbound right-turn lane and a fifth lane on Meridian from 54th to 53rd to allow left-turns.
 - 3. Guarantee the relocation of the existing signal to accommodate street improvements at the 53rd and Meridian intersection.
 - 4. Guarantee future signalization at major openings on 53rd Street when warrants are met.
 - 5. Guarantee a fifth lane along 53rd Street from driveway opening number three east to Meridian.
 - 6. Guarantee dual left-turn lanes on the west and south legs of the intersection of 53rd and Meridian, and provide separate right-turn lanes on all approaches.
- F. Access controls have been platted in accordance with the CUP approval. The plat proposes five access openings along 53rd St. North including four joint openings.
- G. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve items 2-2, 2-5 and 2-6.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).

- 2-6. SUB 2007-107: One-Step Final Plat -- NORTHGATE COMMERCIAL 2nd ADDITION,**
located north of 53rd Street North and west of Meridian Avenue.

NOTE: The site has been approved for a zone change (ZON 2006-25) from SF-5, Single-Family

Residential to LC, Limited Commercial. The Northgate Commercial Park Community Unit Plan (CUP 2006-24, DP-299) was also approved for this site (Parcels 13-15)

STAFF COMMENTS:

- A. Water Utilities Department has required a petition for extension of water and sewer to serve all lots.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. A 20-foot drainage and utility easement is needed along the south property line. A drainage easement is needed for Lot 2 or in the alternative, a cross-lot drainage agreement.
- D. The vicinity map is incorrect.
- E. In accordance with the CUP, the following transportation improvements are required:
 - 1. Guarantee signalization at the 54th Street and Meridian intersection.
 - 2. Guarantee a southbound right-turn lane and a fifth lane on Meridian from 54th to 53rd to allow left-turns.
 - 3. Guarantee the relocation of the existing signal to accommodate street improvements at the 53rd and Meridian intersection.
 - 4. Guarantee future signalization at major openings on 53rd Street when warrants are met.
 - 5. Guarantee a fifth lane along 53rd Street from driveway opening number three east to Meridian.
 - 6. Guarantee dual left-turn lanes on the west and south legs of the intersection of 53rd and Meridian, and provide separate right-turn lanes on all approaches.
- F. Access controls have been platted in accordance with the CUP approval. The plat proposes one joint opening along Meridian.
- G. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. The joint access opening shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- J. The wall easement needs to be referenced in the plat's text.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve items 2-2, 2-5 and 2-6.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

3-1 VAC2007-31: Request to vacate a portion of a sight distance easement,

APPLICANTS: Crestview Country Club Association c/o Kerry Clark, President

AGENT: Martin & Churchill, Chartered, c/o Brad T Murphree

LEGAL DESCRIPTION: Generally described as the southern 10-foot wide portion of the easement for road intersection site distance, dedicated by separate

instrument (Film/Page 28758160, recorded 2-22-2006), Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the southeast corner of 13th Street North & 127th Street East (BoCC 1)

REASON FOR REQUEST: Country club sign

CURRENT ZONING: The site and adjacent northern property are zoned "LC" Limited Commercial. Abutting southern and eastern property are zoned "SF-20" Single-family Residential. Adjacent western property is zoned "SF-5" Single-family Residential.

The applicant is requesting vacation of the southern 10-foot wide portion of the site triangle. There are no franchised or public utilities in the easement. This is the only corner of this intersection where 75-foot of half street right-of-way has not been dedicated for future turn lanes. This case is within the City of Wichita's 3-mile jurisdiction ring and as such will have to be recommended by both the Wichita City County and the Sedgwick County Board of County Commissioners.

NOTE: This case was originally scheduled to be considered by the MAPC at their November 15, 2007 meeting, but was deferred at the applicant's request until the December 6, 2007 MAPC meeting.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the described portion of the of the easement for road intersection site distance easement, dedicated by separate instrument, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time October 25, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the easement for road intersection site distance, dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the easement for road intersection site distance easement, dedicated by separate instrument described in the petition should be approved with conditions;
1. Vacate the south 10-foot wide portion of the easement for road intersection site distance, dedicated by separate instrument as approved by the franchised utilities and City & County Public Works/Water & Sewer/Storm Water. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
 2. The remainder of the easement for road intersection site distance shall be dedicated as public street right-of-way, per the recommendation of the Traffic Engineer.

3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If utilities are to be relocated retain the easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds.
4. All improvements shall be according to City Standards, at the applicant's expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the south 10-foot wide portion of the easement for road intersection site distance, dedicated by separate instrument as approved by the franchised utilities and City & County Public Works/Water & Sewer/Storm Water. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
- (2) The remainder of the easement for road intersection site distance shall be dedicated as public street right-of-way as well as any additional right-of-way as needed, per the recommendation of the Traffic Engineer.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If utilities are to be relocated retain the easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards, at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

BILL LONGNECKER Planning staff presented staff report.

McKAY What utilities are being relocated?

LONGNECKER Water and sewer are outside that site distance triangle.

McKAY Will they have to be relocated?

LONGNECER No, they will become right-of-way. .

BRAD MURPHREY, attorney representing Crestview Country Club, pointed out that 13th Street was improved within the last year. This intersection changed from flashing traffic signals to fully controlled turn signals. At the time of the improvements, Crestview provided a requested easement for sight distance to Sedgwick County. The country club is proposing a wall will be installed along the north and west boundaries of the club. A monument wall will be constructed diagonally at 13th and 127th Streets. The current easement encroaches on a tee box that is adjacent to the triangle. An application was filed to vacate 10 feet from the site distance easement, instead of having to rebuild the tee box. This site easement is restricted for that site purpose; we wanted to try to keep it that way, but staff has requested a dedication of right-of-way for the balance of the site distance triangle. This would require a fee conveyance of the underlying property. Per Crestview's bylaws, this would require a 2/3 vote of the regular members. We are suggesting a modification from a dedication of road right-of-way to a contingent easement for road right-of-way for a turn lane. The change would be from a dedication of right-of-way to a contingent easement.

JOHNSON This appears to be different information than we had at Subdivision. If there is additional information, does this need to be deferred. At Subdivision, Traffic was giving up right-of-way for a right turn lane to get this approved.

LONGNECKER There was no talk about a wall. There was mention of a monument sign, which you have copy of in your packet. A wall is the only new information.

JOHNSON Have you talked to Traffic about this?

LONGNECKER Yes, City and County Traffic, but the wall is new information, presented now. The proposed contingent dedication of easement, not of right-of-way, was not presented to Subdivision for their consideration. Staff recommends dedication of right-of-way, which was approved by Subdivision, not an easement, and no contingent dedications.

JOE LANG, City Attorney's Office, this has been discussed with City Engineering and staff has met with Mr. Murphrey. We did not realize that they were still pursuing the contingent easement. Since the governing bodies are giving up this easement, it is not improper to request something in return. This is consistent with the other corners and throughout the community. The Planning Commission can approve whatever they want. Staff's position is the Subdivision recommendation is the way to go.

McKAY If this is different than Subdivision, is it enough of a difference to return to them?

SCHLEGEL That would be my suggestion, send it back to Subdivision. They can process this new information and return with a recommendation.

MOTION: Defer item back to the Subdivision Committee.

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (11-0).

3-2. VAC 2007-33: Request to vacate a portion of street right-of-way.

APPLICANTS: Sisters of St. Joseph c/o Sister Pamela Young, Administrator

<u>AGENTS:</u>	Ruggles & Bohm, c/o Tom Ruggles
<u>LEGAL DESCRIPTION:</u>	Generally described as a half-street stub of Bluff Avenue.
<u>LOCATION:</u>	Generally located southeast of the Lincoln Street – Bluff Avenue intersection (WCC III)
<u>REASON FOR REQUEST:</u>	Construct private drive and other uses.
<u>CURRENT ZONING:</u>	The site is a, dead end, undeveloped public street ROW. All abutting and adjacent properties are zoned “B” Multi-family Residential & “TF-3” Two-family Residential.

The applicant is requesting vacation of an unimproved, dead end, 30-foot half street stub (minimum 182-feet long) of Bluff Avenue, which appears to be left over from the platting of the Sisters of Saint Joseph Second Addition: recorded with the Register of Deeds May 23, 1975. The Sisters of Saint Joseph Second Addition incorporated some of the University Hill 2nd Addition (recorded February 12, 1887) into its plat. The subject portion of Bluff was dedicated on the University Hill 2nd Addition, as Fees Avenue. The applicant owns all abutting properties and has a private drive in the subject ROW, which the ROW more closely resembles and functions as. There are no water or sewer line or manholes in the ROW. Westar has utilities in the described portion of the ROW.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted street ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 15, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted street ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted street ROW described in the petition should be approved with conditions:
1. Retain all or a portion of the ROW as a utility easement. If providing a portion of the ROW as easement(s) provide staff with an accurate survey of that portion of the vacated ROW to be retained as easement(s) showing the location of the existing utilities. Provide staff with an accurate legal description of the vacated ROW and that portion(s) retained as easement(s) on a word document via e-mail. All easements shall be a minimum of 20-feet wide, with utilities centered in the easements. Provide all to staff prior to the case going to Council for final action.

2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
3. All improvements shall be according to City Standards and at the expense of the applicant.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Retain all or a portion of the ROW as a utility easement. If providing a portion of the ROW as easement(s) provide staff with an accurate survey of that portion of the vacated ROW to be retained as easement(s) showing the location of the existing utilities. Provide staff with an accurate legal description of the vacated ROW and that portion(s) retained as easement(s) on a word document via e-mail. All easements shall be a minimum of 20-feet wide, with utilities centered in the easements. Provide all to staff prior to the case going to Council for final action.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
3. All improvements shall be according to City Standards and at the expense of the applicant.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

BILL LONGNECKER Planning staff presented staff report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (11-0).

3-3. VAC 2007-34: Request to vacate a portion of a platted setback,

APPLICANT/OWNER: Ron Luallen

LEGAL DESCRIPTION: Generally described as the platted 30-foot setback that runs parallel to Waverly Drive, on Lot 35, Block 2, Prairie Park Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located Kellogg Street, east of Edgemoor Avenue, on the southwest corner of Orme Street and Waverly Drive (WCC III)

REASON FOR REQUEST: Additional room for a car port

CURRENT ZONING: Site and abutting and adjacent eastern, western and southern properties are zoned "SF-5" Single-family Residential. Adjacent northern properties, across Orme Street, are zoned "LC" Limited Commercial.

The applicant proposes to vacate the platted 30-foot setback. The zoning of the subject corner site is "SF-5." Per the UZC the short side of a corner lot is considered the front, which is where the platted 30-foot setback is located. The UZC requires a minimum of a 25-foot front yard setback for the "SF-5" zoning district. If the setback was not platted and it was the minimum 25-foot setback for the "SF-5" zoned site, the applicant could apply for an Administrative Adjustment, which would reduce a 25-foot setback by 20%, resulting in a 20-foot setback. The applicant is requesting a reduction of the platted setback to 20-feet. There are no platted easements, franchised utilities, water lines, manholes or sewer line located in the described portion of the platted setback. The Prairie Park Addition was recorded with the Register of Deeds May 22, 1950.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time November 15, 2007 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted setback described in the petition should be approved subject to the following conditions:
 - 1. The platted 30-foot setback, located on Lot 35, Block 2, Prairie Park Addition, along its Waverly Drive frontage will be replaced with a 20-foot setback.
 - 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 - 3. All improvements shall be according to City standards and at the applicant's expense.
 - 4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

- (1) The platted 30-foot setback, located on Lot 35, Block 2, Prairie Park Addition, along its Waverly Drive frontage will be replaced with a 20-foot setback.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to City standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (11-0).

3-4. VAC 2007-35: Request to vacate a portion of a platted easement,

OWNER/AGENT: Terry D & Jody B Klein Mervyn L & Marcia A Criser

LEGAL DESCRIPTION: Generally described as the south 5 to 10-feet of the platted 40-foot utility easement, that is located along the south lot lines of Lots 8 & 9, Block 1, the Savanna at Castle Rock Ranch 4th Addition, Wichita, Sedgwick County, Kansas, and to retain it as a wall easement.

LOCATION: Generally located on the west side of 143rd Street East and on the north side of 13th Street North. (WCC #II)

REASON FOR REQUEST: Masonry wall to buffer properties from traffic along 13th Street North

CURRENT ZONING: Subject properties and abutting northern and adjacent eastern properties are zoned "SF-5" Single-family Residential. Abutting western and adjacent southern properties are zoned "SF-20" Single-family Residential and (southern) "SF-5."

The applicants are requesting consideration for the vacation of the described portions of the platted utility easement. The applicants are proposing to finish construction of masonry wall to buffer them from traffic noise and traffic on 13th Street North. The applicants have provided a letter from the homeowner's association approving the proposed masonry wall. The letter also approves of landscaping and irrigation outside of the wall. This could be an issue in that the south 5 to 10-feet of the utility easement is to be retained as a wall easement. A typical wall easement is 5-feet in width, which would place the proposed landscaping and irrigation into the 13th Street North ROW. A 10-foot wall easement would have to be approved by all utilities, with the wall located on the north (minimum) 10-feet of the easement and the remaining south 5-feet for landscaping and irrigation, an extremely tight fit. It may be that the landscaping and irrigation will have to be placed inside the wall, to avoid encroaching into the 13th ROW.

Sewer appears to be located within the north portion of the platted 40-foot utility easement. Water is located in both the 13th and Castle Rock Streets ROW. Westar has utilities in located within the described easement, that serves both subject properties. The Savanna at Castle Rock Ranch 4th Addition was recorded with the Register of Deeds June 9, 1993.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the portion of the platted utility easement with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time November 15, 2007 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted utility easement and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted utility easement described in the petition should be approved subject to the following conditions:
 - (1) Vacate the approved southern 5-foot to 10-foot portion of the platted 40-foot utility easement that runs parallel to the south back yard lot line of Lots 8 & 9, Block 1, the Savanna at Castle Rock Ranch 4th Addition. Retain it as a wall easement. Westar has utilities in the described easement that will run under the proposed wall. Retain that portion of the utility easement as a wall & utility easement. Provide Westar with a hold harmless agreement, stating that Westar will not be liable to any damage done to the proposed wall and its footing/foundation if Westar has to maintain, repair or replace its equipment that runs under the wall. Have a surveyor provide an approved metes and bounds description of the portion of the easement that will cover the Westar equipment, on a Word document, via e-mail to Planning. This must be provided prior to this case going to WCC for final action.
 - (2) If approved the landscaping and irrigation for the landscaping may be allowed within the wall easement. No landscaping or irrigation for landscaping is allowed in the 13th Street North ROW.
 - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
 - (4) All improvements shall be according to City Standards and at the applicants' expense, including all permits and inspections for the proposed masonry wall.
 - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Vacate the approved southern 5-foot to 10-foot portion of the platted 40-foot utility easement that runs parallel to the south back yard lot line of Lots 8 & 9, Block 1, the Savanna at Castle Rock Ranch 4th Addition. Retain it as a wall easement. Westar has utilities in the described easement that will run under the proposed wall. Retain that portion of the utility easement as a wall & utility easement. Provide Westar with a hold harmless agreement, stating that Westar will not be liable to any damage done to the proposed wall and its footing/foundation if Westar has to maintain, repair or replace its equipment that runs under the wall. Have a surveyor provide an approved metes and bounds description of the portion of the easement that will cover the Westar equipment, on a Word document, via e-mail to Planning. This must be provided prior to this case going to WCC for final action.
2. If approved the landscaping and irrigation for the landscaping may be allowed within the wall easement. No landscaping or irrigation for landscaping is allowed in the 13th Street North ROW.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
4. All improvements shall be according to City Standards and at the applicants' expense, including all permits and inspections for the proposed masonry wall.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (11-0).

3-5. VAC 2007-36: Request to vacate a portion of a platted street right-of-way,

APPLICANTS: Barney Capps Glee L Long

AGENT: Garrett Addison

LEGAL DESCRIPTION: Generally described as the 80-foot (x) 800-foot portion of Lydia Street between Custer and Edwards Streets, abutting the south lot lines of Lots 5 & 6, Block 4 and the north lot lines of Lots 1 & 12, Block 3, all in the Southwest Industrial Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of Pawnee Avenue, west of Meridian Avenue, south of Douglas Avenue, between Custer and Edwards Streets (WCC #IV)

REASON FOR REQUEST: Revert to private drive

CURRENT ZONING:

The site is a platted, partially developed public street ROW, all abutting and adjacent properties are zoned "LI" Limited Industrial

The applicants are requesting the vacation of the described portion of Lydia Street. At some time Lydia had been an asphalt slag/mat finish at this location. Although the applicant has stated that the vacation of the ROW is to allow for future expansion of the manufacturing facility, the submitted site plan shows no expansion into the ROW. There have been three street vacation cases in the Southwest Industrial Addition:

- (1) V-1408, approved July 1986; Vacation of Lydia Street between Edwards Street & Meridian Avenue (located immediately east of the current site/request), with conditions being the reconstruction (provide a guarantee) of the street returns to private drive standards and providing sufficient easement for utilities.
- (2) V-2063, approved January 1998; Vacation of Orient Boulevard, between Sheridan Avenue & May Street, with conditions being the guarantee for a cul-de-sac on Custer Street and retention of the track easement for the rail spur.
- (3) (3) V-2115, withdrawn August 1998; proposed vacation of the portion of Lydia that is today's case. The applicants then are the applicants today.

V-1408 & V-2063 have had the effect of leaving the Edwards & May Streets' intersection as the sole remaining access (east) onto Meridian from this nearly 1/2-mile partially developed "LI" zoned area, the only other access (south) is onto Pawnee from the north to south running Sheridan, Custer & Edwards Streets. The proposed vacation would shut off access onto and off of Meridian for approximately half of this industrial site; Staff would prefer to leave this portion of Lydia open, to allow the remaining access to Meridian open for this area. Water and sewer appear to be out of the Lydia ROW, but there may be a fire hydrant in the ROW. There are no franchised utilities located within the described ROW. The Southwest Industrial Addition was recorded with the Register of Deeds August 8, 1953.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted street ROW, with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 15, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted street ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted street ROW described in the petition should be approved with conditions:
 - (1) Vacate the described Lydia Street ROW, between Custer and Edwards Streets. Retain the 50-foot track easement.

- (2) Construct the entrances onto Custer and Lydia Streets from Lydia Streets per City standards as private drives at the applicants' expense. Provide the City with a guarantee for these improvements prior to the case going to WCC for final action.
- (3) Provide any needed improvements for storm water and franchised utilities that are within/affected by the private drives onto Custer and Lydia Streets from Lydia Streets per City standards at the applicants' expense. Provide the City with a guarantee for these improvements prior to the case going to WCC for final action.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Vacate the described Lydia Street ROW, between Custer and Edwards Streets. Retain the 50-foot track easement.
2. Construct the entrances onto Custer and Lydia Streets from Lydia Streets per City standards as private drives at the applicants' expense. Provide the City with a guarantee for these improvements prior to the case going to WCC for final action.
3. Provide any needed improvements for storm water and franchised utilities that are within/affected by the private drives onto Custer and Lydia Streets from Lydia Streets per City standards at the applicants' expense. Provide the City with a guarantee for these improvements prior to the case going to WCC for final action.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MITCHELL There is an error in the staff report for item 3-5; it should be Edwards for the street name, instead of Sheridan.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (11-0).

3-6. VAC 2007-37: Request to vacate access dedicated by separate instrument.

OWNER/APPLICANT: Herr – Schmader, LLC

AGENT: KE Miller Engineering, PA, c/o Kirk Miller

LEGAL DESCRIPTION: Generally described as the 20-foot access and utility easement dedicated by separate instrument (FILM/PAGE 28773945), located on a portion of Lot 2, Block A, the Santa Fe Orient Industrial District 3rd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located east of Meridian Avenue, north of Harry Street, on the southeast side of the Saint Claire Avenue – Dooley Street intersection.

REASON FOR REQUEST: Proposed building over easement and Lot Split requirement

CURRENT ZONING: Subject property and abutting/adjacent southern and eastern properties are zoned “LI” Limited Industrial. Adjacent western and northern properties are zoned “TF-3” Two-family Residential.

The applicant is requesting consideration for the vacation of the described easement, as shown on the applicant’s site plan. The applicant proposes building over portions of the platted easement and to complete the requirements of a Lot Split: SUB2006-51. Per the GIS map there maybe manholes and sewer line in the north portion of the easement. There are no water lines in the easement. Westar has utilities located within the easement. The easement provides access to Harry Court (and then onto Harry Street) for development along the site’s Dooley Street frontage. SUB2006-51 requires dedication of the access/utility easement; there is complete access control along the Santa Fe Orient Industrial District 3rd Addition’s Dooley frontage. Dooley is an unimproved residential street. The Santa Fe Orient Industrial District 3rd Addition was recorded with the Register of Deeds December 27, 1978.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the access and utility easement dedicated by separate instrument as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time November 15, 2007, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the access and utility easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the access and utility easement dedicated by separate instrument described in the petition should be approved with conditions:

1. Vacate only that portion of the access and utility easement dedicated by separate instrument as described in the legal description, as approved by franchised utilities, City Water & Sewer/Public Works/Strom Water and the Traffic Engineer. Provide Planning Staff the approved legal description of the vacated portion of easement, via e-mail on a Word document.
2. Retain complete access control along Dooley Street and retain the conditions of VAC2005- 11, including its one allowed one point of access from Saint Claire Avenue to Lot 2, Block A, the Santa Fe Orient Industrial District 3rd Addition. Finish Lot Split SUB2006-51.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If needed provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. If needed provide a guarantee for the relocation of the water line and storm sewer line.
4. All improvements shall be according to City Standards.
5. If needed retain the easement until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City/franchised utilities and the new easements for the relocated utilities has been recorded with the Register of Deeds.
6. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the access and utility easement dedicated by separate instrument as described in the legal description, as approved by franchised utilities, City Water & Sewer/Public Works/Strom Water and the Traffic Engineer. Provide Planning Staff the approved legal description of the vacated portion of easement, via e-mail on a Word document.
- (2) Retain complete access control along Dooley Street and retain the conditions of VAC2005- 11, including its one allowed one point of access from Saint Claire Avenue to Lot 2, Block A, the Santa Fe Orient Industrial District 3rd Addition. Finish Lot Split SUB2006-51.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If needed provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. If needed provide a guarantee for the relocation of the water line and storm sewer line.
- (4) All improvements shall be according to City Standards.

- (5) If needed retain the easement until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City/franchised utilities and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (11-0).

3-7. VAC 2007-38: Request to a portion of platted street right-of-way.

APPLICANTS:

Merriam P Dold, Timothy A & Mary Kay Chavez, William F & Deborah H Frailey, Brian L White, Joel T & Susan P Perry, Phillip W Smith, Florence J Dooling Revocable Trust, Darrell L McBride, Paul J & Sharon H Becker, Linda K Smith, & Richard D Warren

AGENTS:

Greenstreet & Mark Savoy

LEGAL DESCRIPTION:

Generally described the north 20-feet and the south 20-feet of the platted 100-foot English Street right-of-way (ROW) between Willow Street (west) and Fountain Avenue, except for that portion that abuts the north sides of Lots 1-7 (all) Block 3, Merriam Park Second Place Addition, Wichita, Sedgwick County, Kansas.

LOCATION:

Generally located west of Oliver Avenue, south of Douglas Avenue, between Fountain Avenue and Willow Street (WCC #II).

REASON FOR REQUEST:

Retaining wall built into ROW & property owners want to revert ROW to private property.

CURRENT ZONING:

The site is a platted, developed public street ROW, all abutting properties are zoned "SF-5" Single-family Residential & "TF-3" Two-family Residential.

The applicants are requesting the vacation of what can be generally described as the north and south 20-feet of the platted 100-foot English Street ROW: never going below 60-feet of ROW, while retaining the sidewalks as being located in the ROW. The proposed vacation will essentially bring most if not all of the applicants' front yards up to the inside edge of the sidewalks on both sides of English. It will also remove a partially constructed retaining wall located on Lot 25, Block 2, Merriman Park Second Place Addition from public street ROW. There are three property owners located in the middle of the south properties, that did not sign the application to vacate the ROW: Lots 1, 2, 3, 4, 5, 6, & 7, Block 3, Merriman Park Second Place Addition. After the MAPC public hearing meeting these three nonparticipating property owners will not be eligible to make this application. The three nonparticipating property owners are not a 'deal killer' for the application, as no access to ROW is being denied, but their

nonparticipation will leave a minimum of 20-feet of English ROW jutting beyond their neighbors' eastern and western yards. There are no platted setbacks, therefore all setbacks for the "SF-5" & "TF-3" zoned participating properties will move forward with the newly established property lines. The properties zoning will also follow the new property lines. Water appears to be located on the outside edge of the south sidewalk. Additional easement may have to be dedicated to provide access to a sewer line located between Lot 16 (west) and Lots 23, 24 & 25 (east), all in Block 2, all in the Merriman Park Second Place Addition. Westar has utilities in located within the described ROW. The Merriman Park Second Place Addition was recorded with the Register of Deeds May 16, 1912. The OA White's Addition in Merriman Addition was recorded with the Register of Deeds March 15, 1917. The Hammond Terrace Addition was recorded with the Register of Deeds October 20, 1917.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted street ROW, as described with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 15, 2007 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described platted street ROW and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted street ROW described in the petition should be approved with conditions;

1. Provide staff with an accurate survey of the vacated ROW showing the location of the existing sidewalks and utilities and verify that they remain within the English Street ROW. Provide staff with an accurate legal description on a word document via e-mail. Provide all to staff prior to the case going to Council for final action. Retain any of English Street as needed for utilities.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary dedicate additional easement to provide access from the English Street ROW to the sewer line located between Lot 16 (west) and Lots 23, 24 & 25 (east), all in Block 2, all in the Merriman Park Second Place Addition. Provide all to staff prior to the case going to Council for final action.
3. Retain a portion of the ROW as easement for Westar's equipment located on the northeast and northwest portions of the ROW. Provide a survey showing the location of the Westar equipment and the size of the easement, whose location/retention will be located/reflected in the metes and bounds description of the approved vacated ROW, as dictated in condition one.
4. All improvements shall be according to City Standards, including the completion of the retaining wall located on Lot 25, Block 2, Merriman Park Second Place Addition.

5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Provide staff with an accurate survey of the vacated ROW showing the location of the existing sidewalks and utilities and verify that they remain within the English Street ROW. Provide staff with an accurate legal description on a word document via e-mail. Provide all to staff prior to the case going to Council for final action. Retain any of English Street as needed for utilities.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary dedicate additional easement to provide access from the English Street ROW to the sewer line located between Lot 16 (west) and Lots 23, 24 & 25 (east), all in Block 2, all in the Merriman Park Second Place Addition. Provide all to staff prior to the case going to Council for final action.
3. Retain a portion of the ROW as easement for Westar's equipment located on the northeast and northwest portions of the ROW. Provide a survey showing the location of the Westar equipment and the size of the easement, whose location/retention will be located/reflected in the metes and bounds description of the approved vacated ROW, as dictated in condition one.
4. All improvements shall be according to City Standards, including the completion of the retaining wall located on Lot 25, Block 2, Merriman Park Second Place Addition.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (11-0).

❖ PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.

4. **Case No.: ZON2007-55** - Lorene Sinclair (owner); Howard Rishel (applicant) Request City zone change from "SF" Single Family Residential to "GC" General Commercial.

The South 150 feet of the North 630 feet of the West 197 Feet of the South 1/2 of the Northwest Quarter (NW1/4), EXCEPT 40 Feet on West for road, in Section 27, Township 27 South, Range 1 West, of the 6th P.M., Sedgwick County, Kansas. AND The South 150 Feet of the North 480 Feet of the West 197 Feet of the South 1/2 of the Northwest Quarter (NW1/4), EXCEPT 40 Feet on West for road, in Section 27, Township 27 South, Range 1 West, of the 6th P.M., Sedgwick

County, Kansas. Generally located south and east of the intersection of S. Ridge Rd. and W. of Taft Ave.

BACKGROUND: The applicant requests “GC,” General Commercial zoning on two unplatted .55-acre parcels located on the east side of Ridge Rd. approximately 300 feet south of W. Taft Ave. The parcels are currently zoned “SF-5,” Single Family Residential, and are developed with single-family residences.

To the north of the application area are “SF-5” zoned single-family residences. South and east of the application area is a “GC” zoned shopping center (DP-151 The Dugan Center.) West of the application area is an “LC” zoned theater and “LC” zoned restaurant. US-54 (Kellogg) is located approximately 700 feet south of the application area, which is accessible from Mid-Continent Dr., but not S. Ridge Rd., which turns into a cul-de-sac just south of the application area.

The overall character of the area is a mix of “GC” and “LC” zoned shopping, restaurant and entertainment uses along Kellogg Dr., Mid-Continent Dr., Ridge Rd. and Taft Ave. There are two “SF-5” zoned homes on the east side of Ridge Rd. and one “SF-5” zoned home on the south side of Taft Ave. The proposed zone change, from “SF-5” to “GC” would require conformance to all property development standards in the Unified Zoning Code.

CASE HISTORY: The properties within this application are currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5,” Single-Family Residential	Single-Family Residence
SOUTH:	“GC,” General Commercial	Restaurant
EAST:	“GC,” General Commercial	Shopping Center
WEST:	“LC,” Limited Commercial	Movie Theater & Restaurant

PUBLIC SERVICES: The properties are located along Ridge Rd., northeast of Mid-Continent Dr. and Kellogg, with construction just being completed along Ridge Rd., north of the subject site. The 2006 Average Daily Traffic Map showed 27,701 ADTs (average daily trips) for section of Mid-Continent Dr., northwest of the application area, and 10,823 ADTs for Taft, just north of the application area. The application area currently has two points of access onto Ridge Rd. City water and sewer are available at the application area.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area, along with the entire surrounding area, as “Regional Commercial.” The Unified Zoning Code defines the “GC” zoning district as generally compatible with the “Commercial” designation of the Comprehensive Plan. The application area is also consistent with the “Commercial Locational Guidelines” of the *Wichita-Sedgwick County Comprehensive Plan*. Commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion, with the location of major commercial uses being coordinated with mass transit routes, high-density residential, employment and other intensive uses. Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses and commercial uses should locate in compact clusters or nodes versus extended strip developments. Commercially-generated traffic should not feed directly onto local residential streets and commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: This zone change request is in conformance with the *Comprehensive Plan* “Wichita Land Use Guide” and “Commercial Locational Guidelines.” A zone change to “GC” and the subsequent redevelopment will require the application area to be in compliance with the landscape ordinance; and to screen and deflect lighting from residential neighbors. To be redeveloped, the applicant will be required to plat the application area. Planning staff anticipates that platting will include complete dedication of access control with one point of access on Ridge Road, and required cross-lot access agreements with all non-residentially zoned neighboring lots.

Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is a mixture of “GC,” “LC” and “SF-5” zoning. The surrounding land uses are a mixture of restaurants, shopping centers, a theater, single-family homes, and an elevated highway. Landscape and screening requirements should help mitigate any negative impacts from the application area onto the surrounding residential neighbors.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as currently zoned, as a single-family residence. However, the “Wichita Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the entire surrounding area as “Commercial.” With a large CUP commercial development to immediate east, and associated street improvements along Ridge and Taft, the entire surrounding area will potentially redevelop for commercial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of “GC” zoning on this property will increase traffic and the intensity of land uses in the immediate area. Designation of the entire surrounding area as “Commercial” in the “Wichita Land Use Guide,” and recent street improvements on Ridge and Taft, have taken into consideration the redevelopment of the surrounding area for commercial uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is in conformance with the *Comprehensive Plan* “Wichita Land Use Guide,” and it is in conformance with the commercial locational guidelines of the plan.
5. Impact of the proposed development on community facilities: A zone change at the application area to “GC” will increase traffic along Ridge and Taft, the designation of the entire surrounding area as “Commercial” in the “Wichita Land Use Guide,” and recent street improvements, have planned and accounted for increased traffic in this area.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **McKAY** seconded the motion, and it carried (11-0).

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5. Case No.: ZON2007-57 – Michael Marks (Owner) Request City zone change from "MF-29" Multi-Family to "LC" Limited Commercial on property described as;

Lots 1-3, Except W. 10 Feet for Street; Block H; S. University Place Addition, Wichita, Sedgwick County, Kansas. Generally located southeast of the intersection of South Meridian, West Merton (1702 S. Meridian Ave.)

BACKGROUND: The application area has 50 feet of frontage on Meridian, with 130-foot depth along Merton. The site is zoned “MF-29” Multi-family Residential; it is developed with a single-family residence built in 1950 and a detached garage. The applicant seeks a zone change to “LC” Limited Commercial; the applicant does not specify a future desired LC land use.

North of the application area is Merton Street, a local residential street. Merton Street acts as a divider at this location between commercial zoning and development to the north on Meridian, and residential zoning and development to the south on Meridian. North of Merton on both sides of Meridian are LC zoned strip malls. South of the application area is an MF-29 zoned legal non-conforming mobile home, and MF-29 zoned single-family residences. East of the site is a “TF-3” Two-family Residential zoned church, and TF-3 zoned residences. West of the site, across Meridian, is an “SF-5” Single-family Residential zoned neighborhood of single-family residences.

CASE HISTORY: The site was platted as Lots 1 and 3 except the west 10 feet for street, Block H of the South University Place Addition in 1887.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC”	Strip commercial
SOUTH:	“MF-29”	Mobile home, single-family residences
EAST:	“TF-3”	Church, single-family residences
WEST:	“SF-5”	Single-family residences

PUBLIC SERVICES: South Meridian is a paved, 4-lane, section-line arterial street with an 80-foot right-of-way at this location. Merton is a paved, 2-lane local/residential street at this location. The application area has one access point from Meridian, one access point from Merton, and access from the alley east of the property. All normal utilities are available at the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets. The application area is within the Stanley/Alley Neighborhood Association. No neighborhood plans exist at this location.

The City of Wichita Access Management Policy would require a 200 to 400-foot separation between a Meridian access point on this property and Merton Street. The 50-foot frontage of this property would not allow an access point to Meridian under the Access Management Policy. If the site had no access from Meridian, all commercial traffic would use Merton, a residential street.

The proposed zone change from “MF-29” to “LC” would require conformance to all property development standards of the Unified Zoning Code (UZC). The UZC standards for setbacks, compatibility standards, parking, screening, and landscape requirements would make this small site

difficult to develop for commercial purposes within those standards. Without these standards, commercial development on this site could have unmitigated negative impacts on surrounding residential zoned property.

RECOMMENDATION: The proposed zone change to LC would permit a number of uses (such as vehicle repair, and drive-though businesses), which may be out of character with nearby residences, and may not fit on the limited site. The proposed zone change would not conform with the Comprehensive Plan Land Use Guide or all of the Commercial Locational Guidelines. Likewise, the small size of this site would make it difficult to develop within the Access Management Policy, or within the UZC standards for setbacks, compatibility standards, parking, screening, and landscape requirements. Based upon information available prior to the public hearings, planning staff recommends that the request be **DENIED**. However, should the MAPC find this site appropriate for commercial zoning, staff would recommend that a zone change be subject to dedication of access control from S. Meridian, and be approved for “NR” Neighborhood Retail zoning. NR zoning would prohibit vehicle repair, would prohibit drive-though businesses, and would limit restaurant and retail size.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** North of Merton on both sides of Meridian are LC zoned strip malls. South of the application area is an MF-29 zoned legal non-conforming mobile home, and MF-29 zoned single-family residences. East of the site is a “TF-3” Two-family Residential zoned church, and TF-3 zoned residences. West of the site, across Meridian, is an “SF-5” Single-family Residential zoned neighborhood of single-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted:** Under the current zoning, the site could continue to be used for a single-family residence, or could be re-developed with two-family or multi-family residential.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request would allow all land uses permitted in LC zoning on the site. The affect on nearby residents could be increased traffic, noise, trash, and light from a non-residential use.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential”. The Urban Residential category includes all densities of residential development found within the urban municipality. This request does not conform to the Comprehensive Plan Functional Land Use Guide. This request also does not conform to the Commercial Locational Guidelines of the Comprehensive Plan, which discourage commercial “stripping” of arterials, and discourage commercial traffic on local streets.
5. **Impact of the proposed development on community facilities:** Traffic on both Meridian and Merton could increase as a result of the proposed zone change.

JESS McNEELY Planning staff presented staff report. DAB voted 6 to 2 in favor of the LC zoning request.

HENTZEN Will this LC zoning affect the uses of the property owner to the south as it is presently zoned?

McNEELY No, his property will stay MF-29.

JOHNSON What did the DAB approve?

McNEELY They voted to approve LC.

MICHAEL MARKS, 752 N. Mission Road and owner of this site. He has had a For Rent sign on the property for 8 months. We did get a tenant for small business, and he was arrested by Central Inspection for non-conforming use. The property has been tried as a rental for residential, but it never stayed rented. The owner to the south was opposed to having LC or some kind of business next door; there are 2 other gentlemen present to speak on this. I am in negotiation with the owner to the south to buy this parcel. It is a vacant mobile home and no one lives there. The trash company has been there for many years and behind there is a salvage company. There is a map that shows 12 homes in the area that are vacant. DAB said it was okay for LC.

McKAY At present, there is nothing there in the building?

MARKS No one wants to rent it.

MCKAY Do you have a proposed use or tenant?

MARKS The person who got arrested may rent it again. He is trying to make the property into something. Everyone in that neighborhood to the south wants something to happen in Light Commercial.

HILLMAN Which staff member was with you at the DAB? Was DAB given a choice between Light Commercial or Neighborhood Retail?

MARKS Yes, that is correct.

MARNELL In the recommendations to deny, if the commission approved the LC request, it recommended dedication of access control along Meridian. Are you in agreement with that?

MARKS Yes, whatever I can to improve the property and fit it into general commercial.

MARNELL That would mean close off your access to Meridian; your only access would be to the street to the north.

MARKS I would do that.

HILLMAN You are in negotiation to purchase the unoccupied property to the south, and it would create a lot more opportunity if you had both properties together. I would recommend that you withdraw your recommendation until you acquire both properties.

MARKS If he had whole lot of money that would be a good idea. Some action is needed. Marks distributed a map showing vacant properties in the area.

DENNIS If this is granted as Limited Commercial, how would you handle the setbacks and parking requirements?

MARKS On the backside of the property, there is enough room to park five cars. On Merton, if they let us widen the garage doors, we could have cars parked right up to building.

DENNIS Staff, is there enough room for the setbacks and parking requirements?

McNEELY The zoning code would require screening from this property to the alley. That would make it very difficult to have access from the alley and have parking there. The use on the site will determine how much parking is needed. This site cannot meet the requirements of the landscape code because landscaping will be required up to the property line. You cannot have parking right up to the property line. Without a site plan to analyze, it is difficult to determine whether it meets all of our codes.

JOHNSON Would they have to meet the requirements in order to have a permit issued? They could still screen from across the alley.

McNEELY They can still have parking on the east side, but that property is developed and there is not currently any screening.

JOHNSON Could be, but we do not know.

McNEELY Does not believe that screening can be placed on the other side of the alley.

JOHNSON A recent project on south Seneca did the same thing in LC.

MARKS If there were some people against this project, you would have a few more people in the negative. No one from the church is here; they received a written notice. An adult bookstore or similar type of business will not be put in there.

WALTER GRAHAM, 311 MANNY LANE. Meridian is a major artery, and the traffic count at Pawnee and Meridian is 14,734 and 13,733 at Harry and Meridian. Since the property in question is in the middle, the traffic count is 14,238. The 1600 block is all commercial. The 1800 block is all industrial. The neighborhood has more than 8 abandoned houses within 200 feet of the proposed zoning. Meridian has extreme flooding, and it has improved a lot over the years. He used to own 1736 S. Meridian, which is a two-story duplex. There has not been any new construction in that block for over 28 years. Haggard Trash Service has been operating for 10 years. The mobile home next to Mr. Marks' property has been vacant for 6 months. There are four abandoned cars there now. He owns the property past the mobile home and wanted Light Commercial 20 years ago. If you grant light commercial for Mr. Marks, he will apply for a zone change.

MITCHELL Your time is up.

GRAHAM Asked for more time.

HENTZEN Do you approve of this zoning request?

GRAHAM I approve of it because Light Commercial needs to be established on that side of the street. He wants to put up a mechanics shop.

GENE ALBERS, 3952 SW 160th Avenue, Cunningham KS. My wife's father use to live across the street, but he has passed away. We would like to sell the property, but we cannot sell our property because no one wants to build a house there. This is spot zoning; there is a residential area along a major road with commercial and industrial uses on both ends. No one complained last night about this change. The trailer house cannot be rented out. If the corner lot was commercial, there could be some nice businesses in the area. Now, it is no use to anybody.

MARKS The property cannot be used the way that it is. He will work with the access control and landscaping issues.

MOTION: To approve for Limited Commercial.

HILLMAN moved, **HENTZEN** seconded the motion, and it carried (10-1).
DENNIS opposed.

6. **Case No.: CON2007-41** – Government Employees/EquiShare Credit Union, c/o Timothy Straub Request City Conditional Use permit vehicle sales on property zoned “LC” Limited Commercial” on property described as;

Lots 25 and 26, Block 33, Westlink Village 2nd Addition, Sedgwick County, Kansas. Generally located North of Central, west of Tyler Road, on the northeast corner of Murray & Central Avenues

BACKGROUND: The credit union (applicant/site’s primary use) proposes to sell automobiles that it has financed and repossessed, from its business site: an accessory use to the primary use. The applicant’s site plan shows the 2,304-sqaure foot credit union building, with two drive-through lanes and a 24-hour ATM located on its north side, two drives onto Murray Street, four trees in the Central Avenue right-of-way (ROW), two trees in the Murray ROW, a pylon sign, an enclosed dumpster, platted 30-foot (Murray frontage) and 15-foot (Central frontage) setbacks and 21 parking spaces. For parking purposes the credit union is considered “office, general,” and is required to have nine (9) parking spaces and one (1) disabled parking space. The applicant proposes to convert the four (4) existing parking spaces along its Central frontage into display spaces for automobiles it has financed and reprocessed. This leaves 17 parking spaces, which is more than adequate for the site’s primary use and the proposed accessory uses. The site has no landscaping or screening and is developed with the primary building with paved parking and internal circulation. The Unified Zoning Code (UZC) classifies a credit union as a bank or financial institution.

Properties abutting the east side of the site are zoned “GC” General Commercial, with a CUP overlay, DP-209. Most of the CUP is developed as a Saturn car sales lot (1993), a large used car sales lot and another to be developed car sales lot (2007), all with their accessory repair garages and car washes, serving the sales lots. These car sales lots are large local dealerships, which represent various car - makers. The rest of the properties are a fast food restaurant (1994) and the (1990) abutting Via-Christi medical office. Properties located north of the site are zoned “LC” (abutting) Limited Commercial and “SF-5” Single-family Residential. The “LC” zoned site has a vacant office building (1966) on it and was recently issued an administrative permit for an 80-foot communication/radio tower: CON2007-45. The “SF-5” zoned properties are part of a large development of single-family residences (Westlink Village 2nd Addition, June 6, 1955), built (random sampling) in the early to late 1950s. Properties located west of the site are zoned “SF-5” and “LC.” The “SF-5” zoned property, west across Murray from the site, is developed as a church. The “LC” zoned properties are developed as a savings & loans/bank (1976), fast food (1975), a gas station (1971) and either freestanding retail or strip retail (1959, 1966). Properties located south of the site, across Central, are zoned “LC”, with a CUP overlay DP-9. Development within the CUP include a large shopping center (1960), free standing retail and retail strips and office (mid 1970s –mid 1980s), a savings & loan/bank (1984), a vacant movie theater (1976) and fast food (late 1980s to present).

CASE HISTORY: Z-0658 (BoCC, June 8, 1965) rezoned the site, Lots 26 & 25, and the abutting northern property, Lot 24, all in Block 33, all in the Westlink Village 2nd Addition from “AA” One-family Residential to “LC” Light Commercial. The Westlink Village 2nd Addition, was recorded with the Register of Deeds June 6, 1955. The site was not developed at the time of the rezoning and the MAPC

had recommended denial of the requested “LC” zoning and had approved “BB” Office zoning, which the BoCC subsequently overturned.

ADJACENT ZONING AND LAND USE:

NORTH: “LC,” “SF-5”	vacant building, single family residences
SOUTH: “LC/CUP”	large retail strip, retail, office, medical, fast food, savings & loans/bank
EAST: “GC – “LC”/CUP”	medical office, fast food, large car sales complexes,
WEST: “SF-5,” “LC”	church, savings & loan/bank, fast food, retail

PUBLIC SERVICES: Tyler Road and Central Avenue are four-lane arterial roads with right and left turn lanes at this location. Murray Street is an improved residential street. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as appropriate for “local commercial.” This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market area. The existing credit union is an appropriate use for this site. The credit union is not proposing the site become a car sales lot, but that it be allowed to display no more than four (4) repossessed cars/light trucks (whose sales it financed) for sale at any one time on the credit union site. The proposed car sales would be an accessory use of the credit union, the primary use. There are at least four (4) other banks/financial institutions, all on Central, all zoned “LC”, all located within 600 to 2,000-feet of the subject site and if this application is approved it can be expected that some if not all of them will consider a similar request. The regional car sales lots located east and adjacent to the site have established car sales in the area. Within the “GC” General Commercial, “CBD” Central Business District, “LI” Limited Industrial, “GI” General Industrial and “AFB” Air Force Base zoning districts of the City, banks/financial institutions have been permitted to sale vehicles they had financed and than repossessed. Staff could not locate any other area of the City where this type of accessory use has been permitted in the “LC” zoning district.

Commercial Objective III.B encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses,” with Strategy III.B.1 seeking to channel new commercial uses to areas identified on the “Wichita Land Use Guide.” Commercial Locational Guideline #3 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting and other activity from adversely impacting surrounding residential areas. The site and the proposed use could meet these criteria.

RECOMMENDATION: Sale of repossessed vehicles, as an accessory use to a bank/financial institution, that financed them is not a use that is reviewed often by Staff. Typically these pre-application inquiries are made by banks/financial institutions that are on an “LC” zoned site and in an area that has no established car sales. Staff usually does not support the introduction of car sales into an area where none exist. The exceptions to introducing car sales into an area where none exist, has been on “LC” zoned sites where an existing garage, vacant or active, has been supported for a Conditional Use for car sales. The results of these approvals are at best mixed, as they can add more mechanical clutter on sites that may have been marginal in regards to their economic vitality and their positive contribution to a neighborhood and its appearance. In fact some Neighborhood Plans specifically prohibit any additional car sales lots within a Plan’s area. The current application is different in that the “LC” zoned site is in an area where a large regional car sales complex is established, that the applicant is asking for the car sales to be an accessory use to the bank/financial institution (as opposed to a vehicle repair garage or a pawn shop) for a limited number of repossessed automobiles, which it had financed, to be sold from the credit union site. The request, if approved will possibly lead to more Conditional Use request for car sales as an accessory use from the other four (4) banks/financial institutions in the immediate area.

Based upon information available prior to the public hearings, planning staff recommends that the request for a Conditional Use to allow car sales as an accessory use to the bank/financial institution be APPROVED, subject to the following conditions:

1. The sale of cars or light trucks on the site (Lots 26 & 25, Block 33, the Westlink Village 2nd Addition) will be an accessory use to the site's primary use as a bank/financial institution. If the primary use ceases to exist, then selling of cars or light trucks on the site will no longer be allowed. No more than four (4) cars or light trucks for sale at any one time shall be allowed on the site. All vehicles must be operable. All vehicles sold on the site must be vehicles that were financed by the site's bank/financial institution and were subsequently repossessed by that same bank/financial institution that financed them; approved vehicles. No sale or rental of trailers, motorcycles or scooters, boats, tractors, lawnmowers, vehicles or trucks larger than pickups are permitted.
2. No automotive service or repair work can be conducted on the site. No body or fender work can be conducted on the site. No washing or cleaning of vehicles can be conducted on the site. No storage or display of vehicles that are not operable on the site. No storage of automotive parts on the site.
3. No delivery of approved vehicles on the site by truck/trailer. All approved vehicles on the site must be driven to the site on their own power. No shipping of approved vehicles off the site by truck/trailer. All approved vehicles on the site must be driven off the site on their own power.
4. The site will be developed according to the approved site plan.
5. A parking barrier, such as a heavy rail type or the current concrete stops, shall be maintained along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that four (4) parked/displayed vehicles do not encroach onto public right-of-way.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons. Outdoor advertisement of the sale of the vehicles on the site shall be limited to the message board on the site's existing pole sign (provide an elevation of the sign with the site plan) and an information sheet attached to an inside side window of the sale vehicles; no painting of sales/advertisement on the car or its windows.
7. There shall be no use of elevated platforms for the display of vehicles. All vehicles on display for sale must be within the paved parking lot of the site, within one of the four parking spaces along the Central frontage. No display/parking of sale vehicles on Murray Street or Central Avenue ROW or the grass in those ROW.
8. No outdoor amplification system shall be permitted.
9. The existing lighting of the site must be shown on the site plan and that will be the allowed lighting on the site.
10. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.
11. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.

12. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is predominately "LC" zoned local retail, office, fast food and banks/financial institutions. Most of the "LC" zoned properties in the area have CUP overlays. The exception is the existing "GC" and "LC" zoned (with CUP overlays) large auto sales complexes, which have more of a regional market area. Established "SF-5" zoned single-family residential development is located north and northwest of the site and behind the commercial development.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is suitable for the commercial uses to which it has been restricted. However the site is adjacent to a large car sales/dealership site and the proposed accessory use of limited car sales on the site, with the conditions of the Conditional Use, would not introduce car sales into the area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of limited vehicle sales as an accessory use to the primary use on the site, when developed with the conditions of the Conditional Use, will have an effect on the area. The effect will most probably be the application by the other four (4) banks/financial institutions for Conditional Uses to sell vehicles as an accessory use off of their sites. Staff feels that the existence of car sales in an area is the key component in regards to consideration to this type of Conditional Use request and this area has that component, plus the noted high number of bank/financial institutions. The conditions of this Conditional Use will set a precedent for the possible future applications by the other banks/financial institutions in the area, including a low number, 4, of vehicles to be sold on those lots. Because the Conditional Use is defining this type of car sales as an accessory use for the established primary use, bank/financial institution, the existing conditions of the site are considered appropriate. For example the site is completely paved over, thus allowing no area for landscaping and there is existing signage and lighting, which cannot be expanded.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. The 1993 establishment of the Saturn car dealership in this area provides an opportunity for clusters of other car sales around it, which the proposed accessory car sales for the bank/financial institution does, but to a limited and curtailed degree. There is no adopted neighborhood plan that would specifically discourage car sales as an accessory use for a bank/financial institution.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **McKAY** seconded the motion, and it carried (11-0).

7. **Case No.: CON2007-42** – City of Wichita, c/o John Philbrick (Owner); City of Wichita, Water Utilities, c/o Jade Dundas (Applicant); Baughman Company, P.A., Attn: Phil Meyer (Agent) Request Conditional Use to allow a wastewater treatment plant to be constructed on property described as;

The west 1480 feet of the north 628 feet of the SW 1/4 of Section 23, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, subject to road rights of way of record. Generally located halfway between 45th Street North and 53rd Street North on the east side of North Hoover Road.

BACKGROUND: The City of Wichita Water Utilities Department is seeking a Conditional Use to permit the construction of a “utility, major,” in this case a wastewater treatment plant, as defined per Section II-B, #13(h) of the Unified Zoning Code (UZC.) A “utility, major” is a Conditional Use in all zoning districts.

The applicant has stated that a future plant will be situated on an approximately 21-acre unplatted site located midway between 45th St. N. and 53rd St. N, along the east side of Hoover Road, on property owned by the City of Wichita. The site has been previously approved for sand and gravel extraction (CON2004-45), and is part of a buffer area located northwest of the city’s closed landfill. The application area is enclosed within a fence that also encloses the entire retired landfill site and sand extraction location. A landscape buffer consisting of a double-row of pine trees also exists along the north and west property lines of the application area. Access to the site from Hoover Street is proposed at the northwest corner of the site. The site is located just outside the Arkansas River 100-year flood boundary.

The applicant is seeking Conditional Use approval for the entire 21-acre site as the exact design of the plant has yet to be determined. The submitted preliminary site plan locates the plant on 5.7 acres located in the southeast corner of the applicant’s total site. The size of the application area has been determined by using present wastewater facilities as a template. The size of the application area is a safeguard so that the City will have adequate space for the placement of a wastewater treatment facility.

The proposed plant will be positioned to provide wastewater treatment for the anticipated growth of Wichita into the areas near the site in northwest Wichita. Odors from the plant will be controlled by the design, materials and the filtering/venting system of building, which will also allow sewer treatment staff to work within this plant.

Recommended development standards include: paved parking and circulation areas, including the plant access road; identification of the location, height and type of support structure for any communication support structures; retention of the 100-foot landscape buffer along the north and south, installation of a landscape buffer along the south and east when the property to the south and east converts to another uses other than sand extraction and the replacement of any missing trees in the landscape buffer; installation of a minimum of a 6-foot security fence along the south and east property line when the land to the south and east is used for a use other than sand extraction; maximum height of lighting standards, including base, shall be 20 feet; setbacks shall be as depicted on the site plan and utilities serving the plant will be underground.

Property to the north and northwest is zoned “SF-20,” Single-family Residential, and is located in an unincorporated portion of Sedgwick County. In 1997, the property located immediately to the north was approved for sand extraction (CU-432) for a time not to exceed 20 years. The approved re-development plan for that property is large lot residential. The land to the northwest has a farmstead and is used for agriculture. Property to the east and south is zoned “SF-5,” owned by the City of Wichita, and is approved

for sand extraction. Land to the west is also zoned “SF-5,” is used for agriculture and is located within the City of Wichita.

CASE HISTORY: The MAPC approved a Conditional Use (CON2004-00045) on January 27, 2005, for sand extraction on the subject property. The property is not currently platted.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-20” Single Family Residential	Sand & Gravel Extraction
EAST:	“SF-5” Single Family Residential	Vacant Land
SOUTH:	“SF-5” Single Family Residential	Vacant Land
WEST:	“SF-5” Single Family Residential	Agricultural Land

PUBLIC SERVICES: The site has access to N. Hoover Road, a two-lane, paved, local road. There are no traffic counts along this stretch of Hoover. There are not any traffic counts within three miles of the subject site. Currently there are not any municipally supplied services to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” map (adopted 2005) of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property as “Park and Open Space.” This category includes parks, golf courses, public open space, private development reserves and recreational facilities/corridors (including natural drainage channels, easements, abandoned railway corridors, etc.) The current zoning of the site is “SF-5,” Single Family Residential. Utility, Major is a conditional use for the “SF-5” zone, per the regulations detailed in the W-SC Unified Zoning Code. The property immediately surrounding the area is shown on the “2030 Wichita Functional Land Use Guide” map “as located within Wichita’s 2030 growth area. The 2000 Sanitary Sewer Master Plan Update” indicates that a wastewater treatment plant is needed in the general area of this application. Utility location guideline 2 (p.36, 1999 Comprehensive Plan Update) states that utilities with significant noise and odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. In addition to the uses permitted in the “SF-5” district, the site may be developed with a “utility, major” use, and accessory uses as depicted on the approved site plan. Until the site is developed with a “utility, major” use the site may also be used for those uses permitted by CON2004-45 and its approved site plan. The site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall obtain all permits necessary to construct the wastewater treatment plant prior to the operation commencing and the site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
3. The property is to be platted within one year of date of the last agency approval needed to permit the facility.
4. In addition to other code required development standards, the site shall be developed with: paved parking and circulation, including the plant access road; identification of the location, height and type of support structure for any communication support structures; retention of the 100-foot landscape buffer along the north and south property lines; installation of a landscape buffer along the south and east property lines when the property to the south and east converts to another uses other than sand extraction; the replacement of any missing trees in the landscape buffer; installation of a minimum of a 6-foot security fence along the south and east property line when the land to the south and east is

used for a use other than sand extraction; maximum height of lighting standards, including base, shall be 20 feet; setbacks shall be as depicted on the site plan and utilities serving the plant will be underground.

5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area's uses are predominately agricultural, large-lot residential and resource-based mining (sand extraction) on property zoned "SF-5" Single-Family Residential and "SF-20" Single-Family Residential. There are undeveloped "SF-5" and "SF-20" Single-Family Residential properties surrounding the site. The Arkansas River is located a little over a half-mile east of the subject site. The nearest single-family residence is about 1,000-feet northwest of the site. There is also a closed landfill located to the southeast of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is "SF-5" subject to a CON2004-00045, which permits sand extraction. The site could continue to be used by the City of Wichita as currently zoned. However, the proposed plant will provide wastewater treatment services to an area that is lacking such service, and will provide for, and support a more efficient future growth pattern for the area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Primary anticipated impacts on adjoining property could be odor and increased traffic. Detrimental affects on nearby residential uses in the area should be minimized by the conditions of the Conditional Use, which should limit odor and other activity from adversely impacting these existing uses. Water and Sewer has stated that the facility will be designed and constructed to ensure an effective method of odor control and will meet or exceed minimum standards for municipal wastewater treatment plants.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The 2030 Wichita Functional Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as "Park and Open Space." This category includes parks, golf courses, public open space, private development reserves and recreational facilities/corridors (including natural drainage channels, easements, abandoned railway corridors, etc.) The property immediately surrounding the area is shown on the "2030 Wichita Functional Land Use Guide" map "as located within Wichita's 2030 growth area. The current zoning of the site is SF-5 Single Family Residential. "Utility, Major" is a "conditional use" for the "SF-5" zone, per the regulations detailed in the "W-SC Unified Zoning Code." The "2000 Sanitary Sewer Master Plan Update" indicates that a wastewater treatment plant is needed in the general area of this application. Sanitary sewer service is critical to the development of land at urban densities. This location is in general conformance with adopted plans and location guidelines.
5. Impact of the proposed development on community facilities: This wastewater treatment plant will allow for a more efficient growth pattern for the community and provide sanitary sewer service to an area that is currently lacking service.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **McKAY** seconded the motion, and it carried (11-0).

The Metropolitan Area Planning Department informally adjourned at 3:00 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2007.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)